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SUBJECT: LABOR/TIP UPDATE #2-2004

11. (SBU) The following is an update of significant recent developments in the labor sector and trafficking in persons (TIP). Topics include:

- TIP: GOG Stepping Up Enforcement Efforts (para 2)
- TIP: ILO Introduces Reforms to Congress (3-4)
- Labor: Successful USDOL Project Design Visit (5)
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- Labor: Education Minister Sanguine about Possible Strike (7-9)
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- Labor: Public Sector Worries (12)
- Labor Dialogue Restarts: CACIF and UGT (13)

TIP: GOG Stepping Up Enforcement Efforts

12. (SBU) The new GOG is starting to take actions against TIP and to work in coordinated law enforcement actions, as they have pledged to do.

-- On March 10, the Minors Section of the National Civilian Police's (PNC) Criminal Investigative Service (SIC) arrested Oscar Emerito Cabeza Garcia, a 24 year-old Salvadoran running the "Cocoloco International" club in Zone 19 of the capital, and rescued three Salvadoran minors being held for prostitution and 5 Salvadoran adult prostitutes. The adults were deported and the minors were turned over to the courts for protection.

-- Immigration, Public Ministry (Office of the Prosecutor for Women) and 150 PNC conducted a coordinated operation targeting gang members near the Mexican border in Tecun Uman, and San Marcos province on March 5. A total of 31 illegal migrants (20 Honduran, 10 Salvadorans, and 1 Mexican) were taken into custody for deportation; 8 reportedly fit the profile of gang members.

-- Fiscal for Women Sandra Zayas told LabAtt on March 12 that recent stakeouts of bars listed in the Casa Alianza report in Mixco, a municipality adjacent to the capital, did not confirm the presence of minors in prostitution. Instead, other bars in the capital listed in the report will be surveiled early in the week of March 15, and a rescue operation will be mounted on March 19. On March 18, Zayas confirmed that her 4-person unit is working with a new 6-person anti-TIP unit in the PNC and six immigration agents in a task force operation, and have confirmed their targets for the March 19 operation.

-- DHS will provide anti-TIP training to PNC, MP, judiciary and Immigration officials during the week of March 22.

TIP: ILO Introduces Reforms to Congress

13. (U) On March 3 the ILO Project to Eliminate Child Labor (IPEC) briefed interested Congress members on a series of proposed reforms to the penal code designed to strengthen anti-TIP legislation. Ten Congressional deputies attended the briefing, hosted by the President of the Child and Family Commission. In a signal of Executive branch support, an official from the Presidential Secretariat on Social Welfare attended the briefing and spoke in support of the proposed reforms (Note: the ILO/IPEC presented the same reforms to the Executive branch, which is considering them but has not yet formally submitted them to Congress).

14. (U) The reforms would increase jail terms for TIP from the current 1-3 years with fines to 5-8 years (6-10 years if

minors are involved). TIP would no longer need to involve the crossing of an international border. The reforms would also stiffen sanctions for kidnapping for sexual purposes (increased from 2-5 years to 3-6 years, 4-10 years for minors under 13 years), corruption of minors (increased from 2-6 years to 4-8 years). All these sanctions would continue to be increased by 2/3 if coercion, trickery, violence or threat are used against the victim; if a parent or guardian is involved; or if the victim is especially vulnerable in terms of economic standing, ethnicity, handicapped status; or if they are migrants or displaced persons. The initiative would add new crimes of sexual trafficking, sexual tourism, and paid sexual relations of minors (all with 6-10 years imprisonment), and child pornography (6-8 years). Penalties for pimping and "ruffianism" (living off the earnings of a prostitute) would be increased from the current fines to 5-8 years and 3-6 years imprisonment, respectively. The reforms also outlawed sexual harassment (punished by 2-6 years imprisonment; 4-6 years if the accused is a parent or guardian). One legislator warned the inclusion of sexual harassment would make the proposal controversial and suggested dropping it.

Labor: USDOL Project Design Visit

15. (U) A design team from USDOL and its contractors (FUNPADEM and Abt Associates) visited Guatemala March 8-11 to meet with stakeholders in the new \$6.75 m regional project "Cumple y Gana." They met with the GOG (Minister of Labor and chief of the Labor Inspectorate), union leaders, employer groups, other international donors, and NGOs active in labor rights promotion. The four-year project, which will focus on labor rights promotion and strengthening of labor law enforcement capacity, was welcomed by all sectors, which pledged to cooperate. The group also met with the Special Prosecutor for Crimes Against Trade Unionists, who agreed to provide information useful to the public about how to file complaints about threats or anti-union violence on the interactive Website contemplated under the project.

Labor Minister Finds "Irregularities" in MOL

16. (U) Labor Minister Jorge Gallardo told the press on March 10 that he had discovered evidence of corruption in the Ministry of Labor including bribery of inspectors by employers in some cases, payments to more than 25 "ghost" workers in the Ministry, and the hiring of 50 political appointees which are considered unnecessary and will not be replaced. (Note: the Ministry has a total personnel of 480, including more than 300 inspectors nationwide.) Gallardo's plan to restructure the Ministry will involve "belt-tightening, without reducing our attention to our duties." Among his first steps to get the Ministry in order, he said, will be to move (to reduce current inflated rental costs of \$22,000/month).

Education Minister Sanguine About Teacher Strike

17. (SBU) On March 11 LabAtt met with Education Minister Maria del Carmen Acena and Vice Minister Chaclan to discuss labor relations in the Ministry. Acena said the Ministry was currently struggling with the issue of the 13,000 teachers incorrectly hired by the Portillo administration. The Ministry has been given 3 months by the President to sort that issue out; the new hires have been suspended during this period. (Note: suspended new hires began a hunger strike on the steps of the Presidential offices on March 12, demanding dialogue, and blocked rush-hour traffic near the Ministry on March 16.) The main problem, according to Acena, is that there is no money in the budget to pay the new employees. An internal Ministry report states that 79% of the 13,000 are technically qualified, and found procedural irregularities in the passage of the Government Accord creating the new positions.

18. (SBU) Acena said she does not think the potential exists for a more general labor conflict with the various teachers' unions, which do not represent the new hires. Such strikes occur only every 10 years, she said, and the teachers are still weary from the last strike which took place in 2003. Furthermore, the unions are exaggerating their membership's hardships. Teachers received a 90% pay boost over the past four years, and are now overpaid if anything, she said. Acena said she hopes to blunt any possibility of a teacher-parent protest by opening channels of communication with parents to inform them of the increases in teacher pay (and lack of any increases in quality or productivity) and to discredit unreasonable union demands, such as their recent request that the Ministry of Labor authorize collective bargaining.

19. (SBU) LabAtt urged the Ministry to view labor relations as a permanent dialogue, and briefed the Minister on the obligations of collective bargaining (mandatory with the

support of 25% or more of the teachers -- she admitted union membership was around 50%), a fundamental labor right. Acena complained that the unions were asking for a 50% pay hike and for the Ministry to pay their union dues, neither of which the Ministry could afford. LabAtt urged her to view the bargaining (which does not have a time limit) as an opportunity to achieve a result which increases the quality and productivity of the workforce. The Minister seemed to take these recommendations under consideration, and asked the Vice Minister to invite the unions to the table in early April.

Labor: Trucker Terror  
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10. (U) On February 25, truckers protested against the new Mayor of Guatemala City's rules prohibiting passage by heavy trucks through the city streets during weekday morning and evening rush-hour periods. (Note: Guatemala's major north-south and east-west highways cross in Guatemala City, which lacks a completed ring road, compounding the traffic problem in the capital.) The protesters blocked those major arteries for 14 hours by parking their trucks and threatened to light gasoline spilled on the roads (near urban residential neighborhoods) from several tanker trucks. Police intervened using tear gas to dislodge the protesters and arrested approximately 30 protesters, including several union leaders (Victoriano Zacarias, a member of the executive board of the CGTG confederation, was the ranking union leader caught), who claim to have arrived on the scene to mediate between the truckers and the authorities and not to organize strike activities. Those individuals remain in custody, charged with terrorism and other serious crimes. The Secretary General of the Inter-American Organization of

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Workers (ORIT), Victor Baez Mosqueira, visited Guatemala March 16 to denounce the detentions of labor leaders Rigoberto Duenas (also a leader of the CGTG, and still being held in the Social Security Institute corruption scandal) and Zacarias.

Labor: Gallery Apparel Case Update  
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11. (U) Representatives of workers from the closed Gallery Apparel factory informed LabAtt on March 9 that since exhausting the conciliation procedures offered by the Ministry of Labor, the aggrieved workers have filed legal complaints in the labor court system. The workers seek severance, holiday, and bonus payments owed by the company. An insurance adjuster for the U.S.-based firm visited Guatemala March 15-16 and met with the Commercial Section about the company's million-dollar claim for losses generated after workers rioted and looted the plant after a payroll was missed in December.

Labor: Public Sector Layoffs  
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12. (U) Public sector union confederation (FENASTEG) bought a full-page add in the afternoon daily "La Hora" on March 11 to denounce the cash-strapped new government's layoffs of public servants in several member unions (of immigration workers, a state-owned bank which may be closed, a municipality, workers in the Ministry of Energy and Mines, the state-owned telephone company, the state literacy agency, and other public institutions). The unions allege that the layoffs violate ILO commitments to respect existing collective bargaining agreements. Most public sector agreements include a "labor stability" clause which prohibits the government from laying off permanent staff unless they are offered a new and comparable job. The add called on the new government to stop the layoffs and cease its unilateral approach by meeting with FENASTEG. Nery Barrios, Secretary General of another major labor federation (UASP) which includes public sector members, told a visiting GSP delegation in February that his union was similarly concerned for its membership, and planned to meet with the President and Vice President to discuss the issue.

Labor Dialogue: CACIF and UGT Meet Again  
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13. (U) A major labor confederation (UGT) met on March 3 with the Labor Commission of the major employer association (CACIF), in response to CACIF's public call for dialogue. Carlos Arias, CACIF's Labor Coordinator, tells us he is seeking union support for possible labor code reforms to promote mediation/conciliation alternatives to the labor court system. Union leaders insist that employers address alleged violations of the right to organize and bargain collectively before employer proposals are considered. Employer-union dialogue had begun shortly after the new government took office but was broken when the Constitutional Court accepted a CACIF request to suspend the previous

government minimum wage hike.  
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